

REMARKS/ARGUMENTS

Upon entry of the above amendment, claims 1-9 will have been canceled and claims 10-20 will have been newly submitted for consideration by the Examiner. In view of the above, Applicant respectfully requests reconsideration of the outstanding rejections of all the claims pending in the present application. Such action is respectfully requested and is believed to be appropriate and proper.

Initially, Applicant would like to express his appreciation to the Examiner for the detailed Official Action provided, for the acknowledgment of Applicant's claim for priority under 35 U.S.C. § 119 and receipt of the certified copy of the priority document in the Official Action. Applicant further notes with appreciation the Examiner's acknowledgment of Applicant's Information Disclosure Statement filed in the present application on October 1, 2001, as evidenced by the return of the initialed and signed PTO-1449 Form, and for consideration of the documents cited in the Information Disclosure Statement.

Turning to the merits of the action, the Examiner has rejected claims 5-6 under 35 U.S.C. § 102 (e) as being anticipated by SAITO (U.S. Patent No. 6,658,247). The Examiner has also rejected claims 1-4 under 35 U.S.C. § 103 (a) as being unpatentable over BRUCK et al. (U.S. Patent No. 6,691,165) in view of DOUGLIS et al. (U.S. Patent No. 6,587,877). The Examiner further has rejected

claims 7-9 under 35 U.S.C § 103 (a) as being unpatentable over DOUGLIS et al. in view of BRUCK et al.

By the current amendment, Applicant cancels claims 5 and 6 without prejudice and disclaimer, as noted above. Thus, Applicant respectfully submits that the 35 U.S.C. § 102 rejection has been rendered moot. Applicant further cancels claims 7-9 without prejudice and disclaimer, as noted above. Thus, Applicant also submits that the 35 U.S.C. § 103 over DOUGLIS et al. in view of BRUCK et al. has been rendered moot. While Applicant cancels claims 5-9, it is noted that Applicant expressly reserves the right to submit similar type claims in another application.

With respect to the Examiner's rejection of claims 1-4 under 35 U.S.C § 103 (a), Applicant respectfully traverses hereinbelow, based on newly added claims 10-16.

As noted above, Applicant has canceled the original claims 1-9 and has submitted new claims 10-20 for the Examiner's consideration. In this regard, Applicant notes that newly added claims 10-13 and 16-18 are generally based on rejected claim 1; claim 14 is generally based on rejected claim 3; and claim 15 is newly submitted. Claims 19-20 recite related methods. Applicant respectfully traverses the above rejections based on newly added claims 10-16 and will discuss said rejection with respect to the pending claims in the present application, as will

be set forth hereinbelow. The newly added claims merely clarify the subject matter recited in the canceled claims, and do not narrow the scope of the claims.

Applicant's claims 10-16 relate to a server apparatus which is selectively connected to a first terminal apparatus and a second terminal apparatus. The first terminal apparatus is able to access a home page provided by the server apparatus. The second terminal apparatus is unable to access the home page provided by the server apparatus. The server apparatus comprises a receiver that receives a request from the first terminal apparatus able to access the home page. The request is input at the first terminal via the home page provided by the server apparatus. The request includes information regarding predetermined media data, such as, for example, music data, and information regarding the second terminal unable to access the home page. The server apparatus also includes a controller that transmits a notification to the second terminal apparatus unable to access the home page, based on the received request. The notification includes a value representing a size of the predetermined media data. The server apparatus receives a response to the notification from the second terminal apparatus unable to access the home page, and transmits the predetermined media data to the second terminal apparatus unable to access the home page when the response indicates that the second terminal apparatus can store the predetermined media data. Claims 19-20 recite this method.

Applicant's claims 17-18 relate to a server apparatus which is selectively connected to at least one of a first terminal apparatus and a second terminal apparatus, the first terminal apparatus able to access a home page provided by the server, the second terminal apparatus unable to access the home page. The server apparatus comprises a receiver that receives a request via the home page from the first terminal apparatus for predetermined media data to be transferred to the second terminal apparatus. The server apparatus comprises a controller that determines whether the second terminal apparatus has sufficient storage space to store the requested predetermined media data. The controller controls the transfer of the requested predetermined media data to the second terminal apparatus when the controller determines that the second terminal apparatus has sufficient space to store the requested predetermined media data.

On the other hand, Applicant submits that BRUCK et al. relate to a server system which automatically shifts network traffic from a failed machine to one or more operational machines when a server failure layer is detected, and reconfigures front-layer servers as needed without interrupting operation of the server system. As the Examiner acknowledged in the outstanding Official Action mailed on August 3, 2004, BRUCK et al. fail to disclose a notification process section and a reception process section, as recited in Applicant's claims.

Applicant's pending claims recite a notification process section and a reception process section, which are not taught or suggested by BRUCK et al. Specifically,

Applicant's invention, as defined by the claims, include a controller that transmits a notification to the second terminal apparatus unable to access the home page, in which the notification indicates a value representing a size of the predetermined media data, and which receives a response to the notification from the second terminal apparatus able to access the home page.

DOUGLIS et al. disclose a system and method to manage time and expenses when communicating between a host and multiple network connections. A server program, inserted between an information requesting device and the network connections, warns a user when pre-specified budgets are exceeded, postpones actions to a later time when conditions are met, and automatically adapts user customization and system configuration values to the changing conditions of use.

In setting forth the 35 U.S.C. § 103 rejection, the Examiner alleges that DOUGLIS et al. discloses structures corresponding to Applicant's notification process section and reception process section. Applicant respectfully disagrees with the Examiner's assertion. Applicant submits that DOUGLIS et al. merely disclose that HOST 20 has the capability to access a home page provided by WWW servers. However, Applicant submits that DOUGLIS et al. fail to disclose or suggest that a second terminal apparatus that is unable to access a home page provided by the server apparatus. Applicant submits that DOUGLIS et al. fail to disclose or suggest a controller that transmits a notification to a second terminal

apparatus (which is unable to access a home page), or the notification that indicates a value representing a size of the predetermined media data, or the controller that receives a response to the notification from the second terminal apparatus.

Accordingly, Applicant submits that if one attempted to combine the teachings of the applied references in the manner suggested by the Examiner, one would fail to arrive at the present invention, as defined by the claims, as such combinations would lack all the features of the instant invention.

Therefore, it is respectfully submitted that the features recited in Applicant's pending claims 10-20 are not disclosed or suggested by the applied art of record.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and an indication of the allowability of all the claims pending in the present application in due course.

SUMMARY AND CONCLUSION

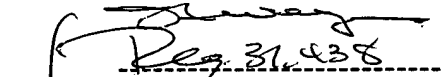
In view of the fact that none of the art of record, whether considered alone or in combination, discloses or suggests the present invention as defined by the pending claims, and in the further view of the above amendments and remarks, reconsideration of the Examiner's action and allowance of the present application is respectfully requested and is believed to be appropriate.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Commissioner determine that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. § 1.136(a), is herewith made in an amount equal to the time period required to render this response timely and/or complete. The Commissioner is authorized to change any required extension of time of time fee under 37 C.F.R. § 1.17 to Deposit Account No.19-0089.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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